

US EPA and Lignite Energy Council

Mining Smart Sectors Meeting

Bismarck, ND

Tuesday, December 4, 2018

Meeting Summary

Welcome and Introductions

US Environmental Protection Agency (EPA) Regional Administrator Doug Benevento welcomed attendees and invited the participants to introduce themselves and offer their ideas for EPA reforms.

Stakeholder Input

Participants introduced themselves and provided the following comments:

Mr. Benevento encouraged participants to submit comments to EPA about the Proposed Affordable Clean Energy Rule (ACE) which is currently open for public comment. Learn more about ACE: [HYPERLINK "https://www.epa.gov/sites/production/files/2018-08/documents/ace_overview_0.pdf"].

Participants said that ACE does not differentiate lignite coal. Participants did not think this is a problem with ACE because the proposed rule provides flexibility. Participants were encouraged to comment on the proposed rule.

Participants said that the Clean Power Plan did not differentiate the unique qualities of lignite coal and that education of lignite as a unique type of coal is ongoing.

Participants said that EPA employees in Washington DC don't necessarily understand the unique position of the state and lignite coal.

Participants said it is important that ACE provide technical guidance to future rulemaking associated with the unique qualities of lignite.

Participants expressed frustration with the lack of technical understanding at EPA headquarters. Several participants discussed the value of site and facility tours for EPA HQ staff.

On December 6, 2018, EPA proposed to revise the New Source Performance Standards (NSPS) for greenhouse gas emissions from new, modified, and reconstructed fossil fuel-fired power plants.

Participants were encouraged to comment on the proposal: [HYPERLINK "https://www.epa.gov/sites/production/files/2018-12/documents/fs-111b_proposal_12-6-2018f.pdf"]

Participants expressed an interest in shortening permitting times. Mr. Benevento said that reducing EPA's permit backlog and decreasing permitting times is a priority for EPA Acting Administrator Andrew Wheeler.

Participants commented that the regional haze issues have been managed successfully. Participants asked if utilities should expect a change in the regional haze compliance schedule. The EPA is aware of the tight compliance timeframes. EPA will hold states accountable for compliance.

Participants said that certainty and clarity are important to the mining sector and Mr. Benevento said that certainty and clarity are priorities for Acting Administrator Wheeler.

North Dakota State Department of Health Environmental Health Section Chief commented that he appreciates that EPA looks at the state as a co-sovereign. The state appreciates flexibility from the EPA. The state appreciates that EPA is saying "how can we help?" instead of "why are you doing this?"

A participant commented that the State previously spent \$700K fighting EPA and now spends \$100K fighting environmental groups.

Participants said that they appreciate that EPA is collaborating with industry and the state through the Smart Sectors program and cooperative Federalism.

Participants encouraged the EPA to speed up state management of coal combustion residuals (CCR).

Participants asked how the reforms made in the Trump administration can be made durable and more resistant to political change to give certainty to utilities.

The State of North Dakota and EPA region 8 senior leadership are discussing writing documents which will define the EPA and State roles in enforcement and compliance. The documents will be shared with the public when complete.

EPA staff announced that participants will see a proposed WOTUS rule soon.

Participants encouraged EPA to engage with the regulated communities in advance of public comment periods.

Participants appreciate the guidance revisions EPA made to the definition of common control ambient air exclusions.

Participants expressed hesitation to use NSR guidance documents because of lack of certainty.

Participants said that SO₂ modeling flexibility would have been appreciated.

EPA announced that EIS comments will become more substantial and descriptive and that EPA follows strict NEPA timelines for comments so as to not delay projects.